

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KURBY GERALD DECKER,
(TDCJ-CID #594703)

Petitioner,

vs.

WILLIAM STEPHENS,
Director TDCJ-CID,

Respondent.

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CIVIL ACTION H-13-2067


MEMORANDUM ON DISMISSAL

The petitioner has not responded to the Respondent's Motion for Summary Judgment. (Docket Entry No. 11). The court's order to answer entered September 3, 2013 required the petitioner to respond to any dispositive motion filed by the respondent within thirty days. (Docket Entry No. 7). The court's order specifically provided that "failure to file a response within thirty days shall result in dismissal of this action for want of prosecution under FED. R. CIV. P. 41(b)." The certificate of service attached to the Respondent's Motion for Summary Judgment indicates that a copy of this motion was sent to the Estelle Unit, the only address on record for the petitioner. The petitioner's failure to pursue this action forces this court to conclude that he lacks due diligence.

Under the inherent powers necessarily vested in a court to manage its own affairs, this court determines that dismissal for want of prosecution is appropriate. *See* FED. R. CIV. P. 41(b); *Woodson v. Surgitek, Inc.*, 57 F.3d 1406, 1417 (5th Cir. 1995); 8 J. MOORE, FEDERAL PRACTICE § 41.51(3)(b) & (e) (3d ed. 2002). Upon a proper showing, relief from this order may be granted in accordance with FED. R. CIV. P. 60(b).

This action is DISMISSED without prejudice for want of prosecution. Respondent's Motion for Summary Judgment, (Docket Entry No. 11), is DENIED as moot.

SIGNED at Houston, Texas, on Jan 5, 2014.


VANESSA D. GILMORE
UNITED STATES DISTRICT JUDGE